

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH ALLEN LESMEISTER, JR.,

Defendant.

CR 13-11-M-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on June 4, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.


McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Joseph Allen Lesmeister, Jr.'s guilty plea after Lesmeister appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of possession of stolen firearms in violation of 18 U.S.C. § 922(j) (Count I), as set forth in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (doc. 62), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Joseph Allen Lesmeister, Jr.'s motion to change plea (doc. 39) is GRANTED.

DATED this 25th day of June, 2013.



Dana L. Christensen, Chief District Judge
United States District Court